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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

# THE WESTERN AND SOUTHERN LIFE INSURANCE COMPANY et al.,

### **Plaintiffs.**

- V -

# COUNTRYWIDE FINANCIAL CORPORATION et al.,

## Defendants

**PLAINTIFFS' REQUEST FOR  
JUDICIAL NOTICE IN SUPPORT  
OF THEIR MOTION FOR  
RECONSIDERATION**

Case No. 2:11-cv-07166

# NATIONAL INTEGRITY LIFE INSURANCE COMPANY,

**Plaintiff.**

- V -

# COUNTRYWIDE FINANCIAL CORPORATION et al.,

## Defendants

Case No. 2:11-cv-09889

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that Plaintiffs The Western and Southern Life  
3 Insurance Company, Western-Southern Life Assurance Company, Columbus Life  
4 Insurance Company, Integrity Life Insurance Company, Fort Washington  
5 Investment Advisors, Inc., and National Integrity Life Insurance Company  
6 (collectively, "Western & Southern") by and through their attorneys of record,  
7 hereby request that the Court take judicial notice, pursuant to Federal Rule of  
8 Evidence 201 and supporting case law, of the documents and facts listed below in  
9 connection with their Motions for Reconsideration and Leave to Amend, and,  
10 Alternatively, Entry of Judgment.

11 Exhibit No. 1:

12 Letter ruling in *W. & S. Life Ins. Co. v. DLJ Mortgage Capital, Inc., et al.*,  
13 Case No. A1105352 (Ohio C.P.) issued on May 22, 2012.

14 Exhibit No. 2:

15 Memorandum and decision in *W. & S. Life Ins. Co. v. GS Mortgage*  
16 *Securities Corp., et al.*, Case No. A1106193 (Ohio C.P.) issued on  
17 September 11, 2012.

18 Exhibit No. 3:

19 Excerpted transcript of oral argument and bench ruling in *W. & S. Life Ins.*  
20 *Co. v. Morgan Stanley Mortgage Capital, Inc., et al.*, Case No. A1105563  
21 and *W. & S. Life Ins. Co. v. Bank of America, N.A., et al.*, Case No.  
22 A1106524 (Ohio C.P.) issued on August 3, 2012.

23 Exhibit No. 4:

24 Order issued on June 5, 2012 in *Stichting Pensioenfonds ABP v.*  
25 *Countrywide Fin. Corp.*, No. 11-56642 (9th Cir.) and *United Financial*

1           *Casualty Co. v. Countrywide Fin. Corp.*, No. 11-57135 (9th Cir.) denying  
2 defendants-appellees' motions to dismiss the appeals.

3 Exhibit No. 5:

4           Excerpted copies of the prospectus supplements associated with certain  
5 RMBS purchased by the plaintiffs in *Luther v. Countrywide*, No. BC380698  
6 (Cal. Super. Los Angeles Cty., Nov. 14, 2007).

7 Exhibit No. 6:

8           Excerpted copies of the prospectus supplements associated with RMBS  
9 purchased by Plaintiffs.

10 Exhibit No. 7:

11           A copy of the pooling and servicing agreement of Countrywide Alternative  
12 Loan Trust 2006-39CB, Mortgage Pass-Through Certificates, Series 2006-  
13 39CB, dated as of November 1, 2006.

14 Exhibit No. 8:

15           A copy of the Prospectus Supplement dated November 29, 2006 to the  
16 Prospectus dated November 14, 2006 for Countrywide Alternative Loan  
17 Trust 2006-39CB, Mortgage Pass-Through Certificates, Series 2006-39CB.

18  
19           Plaintiffs request that the Court take judicial notice of the above-referenced  
20 documents and the above-mentioned facts pursuant to Rule 201 of the Federal  
21 Rules of Evidence. Federal Rule of Evidence 201 provides that a court may take  
22 judicial notice of a fact "not subject to reasonable dispute in that it is either (1)  
23 generally known within the territorial jurisdiction of the trial court or (2) capable of  
24 accurate and ready determination by resort to sources whose accuracy cannot  
25 reasonably be questioned." FED. R. EVID. 201(b). *See also In re Computer Scis.*  
26 *Corp. Deriv. Litig.*, 244 F.R.D. 580, 587 n.8 (C.D. Cal. 2007); *In re Wet Seal, Inc.*  
27 *Sec. Litig.*, 518 F. Supp. 2d 1148, 1157 (C.D. Cal. 2007); *Lee v. City of Los*

*Angeles*, 250 F.3d 668, 688-689 (9th Cir. 2001) (courts may take judicial notice of public records including SEC filings).

## CONCLUSION

For all of the above reasons, Plaintiffs respectfully request that the Court take judicial notice of Exhibits 1-8 filed in support of their Motions for Reconsideration .

Dated: October 4, 2012

/s/ Brian C. Lysaght

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